



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3800
(U-010)
UTU-078288

January 7, 2004

CERTIFIED MAIL #7002 3150 0004 1699 4421
RETURN RECEIPT REQUESTED

DECISION

DAVE ADAMS
60 S 100 E
KANOSH UT 84637

: ADDITIONAL INFORMATION
: REQUIRED---
: 43 CFR 3809.552(a)
: SECOND NOTICE

On November 14, 2003 we sent you a decision requiring additional information regarding your reclamation cost estimate for Notice UTU-078288. You received the decision on November 18, 2003, and were asked to respond within 30 days of receipt. You did not respond within the time frame which ended December 20, 2003.

We are again enclosing our reclamation cost estimate for your operation. You have 30 days from the receipt of this decision to submit either written concurrence with the estimate or information that specifies why it should be revised. If you do not submit the information within 30 days, your notice will expire, and we will issue an order requiring you to cease all mining activity and to begin reclamation. Reclamation must begin within 30 days of receipt of the decision and end at the earliest feasible time. You may submit a new notice or plan; however, since you extended your notice, you would no longer have the option of deferring reclamation as allowed by § 3809.300(d) and, according to § 3809.335, you must begin reclamation by the deadline regardless of whether or not you submit a new Notice or Plan, unless you can have acceptable financial guarantee in place by the deadline to end reclamation.

If you do submit the information, and we still do not agree with it, we will issue a decision that allows you 60 days to submit a financial guarantee in the amount we calculate. If you do not submit the financial guarantee within that time frame, your notice will expire, and you must promptly begin reclamation of the site.

RECEIVED

JAN 12 2004

DIV. OF OIL, GAS & MINING

If you do not agree with this decision, you have the right to request review by the Utah State Director (SD), of the Bureau of Land Management, in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement must be filed in writing within 30 days after you receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's adverse decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Fillmore Field Office within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808, this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.



ACTING

Enclosures

Reclamation Cost Estimate
Form 1842-1

cc: Tom Munson, UDOGM (S/023/069)
Eugene Hodges, PO Box 997, La Verkin, UT 84745
Jimmy Hodges, PO Box 1319, Beaver, UT 84713
Shay Hodges, 676 N 100 W., Beaver, UT 84713